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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,825	11/13/2003	Mark D. Monica	IPE-1	8830

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EXAMINER

PATEL, TAJASH D

ART UNIT PAPER NUMBER

3765

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/712,825	Applicant(s) MONICA, MARK D.	
	Examiner Tejash D Patel	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-153 is/are pending in the application.
- 4a) Of the above claim(s) 136-153 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-135 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/8/04 & 7/21/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 136-153 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 10/7/04.

Claim Objections

2. Claims 114, 117, 120, 123, 125, 128 and 130 are objected to because of the following informalities: Claims 114, 117, 120, 123, 125, 128 and 130 are dependent on itself. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4 and 6-11, 17, 19, 22, 24, 25, 36, 38, 40, 42-44, 46-72, 74, 81-91, 97-100, 111-113, 119-122, 133- 135 are rejected under 35 U.S.C. 102(b) as being anticipated by Farrell (US 6,295,654). Farrell discloses a protective pad apparatus (10) for protecting the chest, back and shoulder that includes a shell assembly (40) having a cushioning laminated pad (20) being

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fastened thereto which allow air to flow therethrough as shown in figures 2 and 4. Further, the laminate includes an outer and inner fabric layers (24) which allows air to flow therethrough while inherently functioning as a radiant heat barrier, col. 3, lines 1-7 and as shown in figure 2. In addition, the cushioning pad laminate includes at least two discrete impact absorbing foam layers (32,34), col. 3, line 53 – col. 4, line 11. Furthermore, the cushioning pad laminate can include at least three discrete impact absorbing layers (30,32,34). Also, the shell assembly (40) includes a plurality of discrete protector panels as shown in figure 4. Additionally, the shell assembly has first and second halves which move relative to one another, col. 5, lines 1-13. The protective pad is secured to the body by a belt strap (54). Further, the shell assembly being defined front, back and shoulder portions/panels each has a plurality of raised embossments thereon as shown in figure 4.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5, 12, 18, 20, 26, 37, 39, 41, 45, 73, 92, 101, 109-110, 114, 123, 131, and 132 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farrell. It would have been obvious to one skilled in the art at the time the invention was made to form the outer fabric of Farrell form any desired material that was available at the device was made or as required for a particular

application thereof. Further, it would have been obvious that the cushioning pad and shell assembly of Farrell can be made of any color as a matter of design choice.

7. Claims 13-16, 21, 23, 27-35, 52- 54, 75-80, 93-96, 102-108, 115-118, 124-130 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farrell as applied to claim 10 above, and further in view of Bainbridge et al. (US 6,453,477). Farrell discloses the invention as set forth above except for showing the cushioning pad including a substrate that is made of foam beads that are fused where the beads contact.

Bainbridge et al. (hereinafter Bainbridge) discloses a cushioning pad (20) including foamed beads (22) that are fused together where the beads contact one another, col. 14, lines 30-67 and as shown in figures 30-32. Also, the pad is detachably secured to an shell assembly (54) by detachable snap fasteners (60) as shown in figure 25.

It would have been obvious to one skilled in the art at the time the invention was made to substitute one of the layers of the cushioning pad of Farrell with a substrate that is made of foam beads that are fused where the beads contact as taught by Bainbridge as an alternative but equivalent means of absorbing force of impact as known in the art. Furthermore, it would have been obvious that impact cushioning material having different absorbing properties can be substituted for the layers of Farrell as required for a particular application thereof. Also, it would

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have been obvious that the shell assembly of Farrell can be detachably secured to the pad by snap as taught by Bainbridge so that the shell is easily removed when not in use.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tejash Patel whose telephone number is (571) 272-4993.



**TEJASH PATEL
PRIMARY EXAMINER**

March 2, 2005